

TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER I---CIVIL SERVICE COMMISSION
MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments to this title and chapter are effective December 1, 1950, except as otherwise provided in the text.

PART 2--APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

1. A new subparagraph (7) is added to § 2.112(a) as set out below. As amended § 2.112(a) reads as follows:

§ 2.112 Appointments subject to investigation. (a) The following types of appointment shall be made subject to investigation:

- (1) Original probational.
- (2) Reappointments.
- (3) Reinstatements.
- (4) Temporary appointments.
- (5) Inter-agency transfers.
- (6) Conversions from excepted, war service indefinite or temporary indefinite appointments to competitive appointments.

(7) Indefinite appointments under Parts 2, 7 and 8 of this chapter.

2. Paragraphs (a), (d), (e), (f), (g), (h), and (i) of § 2.114 are hereby suspended.

3. Paragraph (b) of § 2.114 is amended to read as set out below.

§ 2.114 Temporary appointment * * *

(b) Job employment. When there is work of a temporary character, at the completion of which the services of an additional employee will not be required, a temporary appointment for job employment may be made, with the prior approval of the Commission, for a period not to exceed one year. Such appointments, when made for a period of less than one year, may be extended without further approval of the Commission for a period or periods not extending beyond one year from the date of original appointment. Any person eligible for indefinite appointment under § 7.105(a) of this chapter may be noncompetitively selected for job employment without regard to registers of eligibles or prior approval of the Commission. Whenever there are insufficient available eligibles on registers, in making appointments under this paragraph agencies shall (1) give preference first to 10-point veterans and second to 5-point veterans; and (2) obtain a decision from the Commission whenever it is necessary to determine whether any applicant is disqualified because of physical unfitness.

4. A new § 2.115 is added as follows:

§ 2.115 Indefinite appointment--(a) In general. On and after December 1, 1950, all new appointments shall be indefinite appointments except those of postmasters in all classes of post offices and, in unusual circumstances, appointments to positions for which the Commission determines that probational appointments are in the interest of the service: Provided, That

agencies may give probational appointments after that date to eligibles who were regularly selected from certificates issued prior to December 1, 1950 for probational appointment. Such indefinite appointments shall be made from the Commission's registers of eligibles unless there are insufficient available eligibles. The Commission may restrict certification for indefinite appointment to eligibles that are immediately available because of residence or other conditions. The first year of service under an indefinite appointment shall be a trial period similar to the probationary period established by § 2.113 of this part. Persons given such appointments do not thereby acquire a permanent civil service status. The appointment of any person serving under a temporary appointment pending establishment of a register, a war service appointment, or an emergency-indefinite appointment on December 1, 1950 is hereby converted to an indefinite appointment under this section. Service in the same agency immediately preceding such conversion shall be counted toward completion of the required one-year trial period.

(b) Special requirements when appointments are made in absence of eligibles. Whenever there are insufficient available eligibles on registers, in making appointments under this section agencies shall (1) give preference first to 10-point veterans and second to 5-point veterans; and (2) obtain a decision from the Commission whenever it is necessary to determine whether any applicant is disqualified because of physical unfitness.

(c) Within-grade salary step-increases. Persons serving under indefinite appointment in positions within the scope of the compensation schedules of the Classification Act of 1949 are eligible for periodic step-increases and additional step-increases as rewards for superior accomplishment in accordance with Subpart A of Part 25 of this chapter.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U.S.C. 631, 633)

PART 3--ACQUISITION OF A COMPETITIVE STATUS

SUBPART A--REGULATIONS UNDER CIVIL SERVICE RULE III is hereby suspended.

(R.S. 1753, sec. 2, 22 Stat. 403; 5 U.S.C. 631, 633)

PART 7--APPOINTMENT OF EMPLOYEES OF OTHER AGENCIES WITHOUT REEMPLOYMENT RIGHTS AND OF FORMER FEDERAL EMPLOYEES

1. The headnote of Part 7 is amended to read as set out above.
2. Sections 7.101 to 7.104 are hereby suspended.
3. A new § 7.105 is added as set out below.

§ 7.105 Agency authority and general requirements. (a) After September 1, 1950, the employment noncompetitively of employees of other agencies without reemployment rights and of former Federal employees shall be by indefinite appointment only. The Commission hereby delegates authority to agencies to make such indefinite appointments subject to the following conditions:

(1) Any former Federal employee having a competitive status may be appointed in any agency.

(2) Any employee having a competitive status who seeks employment in another agency, but has not been granted a release with reemployment rights by the agency in which employed, may be appointed in any agency.

(3) Any former Federal employee without competitive status may be appointed in an agency program designated by the Bureau of the Budget to be related directly to national defense, provided his former employment was under an indefinite appointment during which he obtained such specialized experience as is needed to perform the duties of the position to which his appointment is proposed: Provided, That in making such appointments agencies shall give preference first to 10-point veterans and second to 5-point veterans.

(4) In giving indefinite appointment to a person having competitive status the agency may make such appointment in lieu of reinstatement, thereby bringing such person within the provisions of the Civil Service Retirement Act.

(5) The standards of the Commission must be met and the promotion restrictions of § 8.109 of this chapter observed.

(6) The Commission may disapprove any such indefinite appointment, or suspend or withdraw this authority whenever, after post-audit, it finds that the regulations in this section have not been followed.

(7) The trial period for persons appointed under this section shall be a complete one-year period. A trial period shall not be required for persons who have previously served a probationary period or a trial period of one year.

(8) Persons given such indefinite appointments do not thereby acquire a permanent civil service status. Persons serving under such appointments are eligible for within-grade salary step-increases in the same manner as provided in § 2.115(c) of this chapter.

(R.S.1753, sec. 2, 22 Stat. 403; 5 U.S.C. 631, 633)

PART 8--PROMOTION, DEMOTION, AND REASSIGNMENT
AND MOVEMENT OF EMPLOYEES BETWEEN AGENCIES
WITH REEMPLOYMENT RIGHTS

1. The headnote of Part 8 is amended to read as set out above.
2. Sections 8.101 to 8.106 are hereby suspended.
3. New §§ 8.107 to 8.115 are added as set out below.

§ 8.107 Promotions, demotions, reassignments on an indefinite basis.

(a) All promotions after September 1, 1950, and all demotions on and after December 1, 1950, shall be designated as indefinite rather than permanent actions; and on and after December 1, 1950, any reassignment may, in the discretion of the head of the agency, be either on a permanent or indefinite basis: Provided, That the demotion or reassignment of a permanent employee shall not be designated as an indefinite action when the demotion or reassignment is to the position he last held on a permanent basis or to one of lower grade (or level) than such position.

§ 8.108 Agency authority for promotion, demotion, or reassignment.

(a) The Commission hereby delegates authority to agencies to promote, demote, or reassign any employee in accordance with standards of the Commission.

(b) The Commission may disapprove any promotion, demotion, or reassignment, or suspend or withdraw this authority whenever, after post-audit, it finds that the regulations in this part have not been followed.

§ 8.109 Restrictions on promotions. On and after December 1, 1950, an employee serving in a position in grade GS-5 or a comparable or higher level must have served six months in his present grade or level before being promoted to a higher grade or level; and no employee may be given, at any one time, a promotion of more than two grades if he is being advanced from any grade below GS-10 (or equivalent), nor more than one grade if the promotion is from a GS-10 (or equivalent) or higher grade position. Approval must be obtained from the Commission whenever it is desired to make an exception to the requirements of this section.

§ 8.110 Status unchanged. (a) The promotion, demotion, or reassignment of a permanent employee shall not change his status as a permanent employee of the agency. At the time he leaves his permanent position the agency shall record in his Official Personnel Folder sufficient information to identify clearly the position he last held on a permanent basis.

(b) The promotion or reassignment of any employee who has not completed the probationary or trial period shall be subject to completion of such period.

(c) Any permanent employee of the agency who is separated by reduction in force from the position to which he was given an indefinite promotion, demotion, or reassignment shall, unless he is placed in a higher grade position than the one last occupied on a permanent basis, be considered

as restored to the position he last held on a permanent basis and shall compete for retention at that level under Part 20 of this chapter.

§ 8.111 Demotions necessary to place returning veterans. When a demotion or separation is necessary to make a position available for a former employee entitled to restoration after service in the armed forces, agencies shall make such demotion or separation in accordance with Part 20 of this chapter.

§ 8.112 Promotion of substitutes in the Postal Service. Substitutes shall be promoted to the first vacancies occurring in regular positions in the order of their original appointment, whenever there are substitutes of the required sex who are eligible and will accept, unless such vacancies are filled by promotion, or by indefinite appointment of persons with competitive status under Part 7 of this chapter. Whenever two or more substitutes are appointed on the same day the order of promotion shall be the order in which their names appeared on the civil-service register from which they were originally appointed.

§ 8.113 Movement of employees between organizational units. (a) After September 1, 1950, the employment without a break in service of employees of other agencies shall be by indefinite appointment rather than by transfer. The movement of employees from one organizational unit to another in connection with a transfer of functions, however, shall be without change in employment status.

§ 8.114 Release with reemployment rights. (a) It shall be the responsibility of the agency to determine whether its employees may be released with reemployment rights for employment in another agency. Whenever it determines that, under standards issued by the Commission, the release of an employee will be in the interest of the defense program, the agency shall release such employee with reemployment rights. A permanent employee shall be eligible for release with reemployment rights unless he has received, or is about to receive, a reduction-in-force notice. A permanent employee who has been released with reemployment rights for indefinite appointment in his present agency shall be eligible for further release with reemployment rights in the agency from which he was originally released.

(b) Whenever an agency refuses to release an employee with reemployment rights, the agency desiring his services may appeal to the Commission. Final decision as to whether the employee shall be released with reemployment rights shall then be made by the Commission.

(c) Any employee released with reemployment rights who is subsequently involuntarily separated, without cause such as would reflect on his suitability for reemployment, shall be reemployed, with the status of a permanent employee, within thirty days of his application, by the agency from which he was originally released, in the occupational field and at the same grade or level and in the same geographical area as the position which he last held on a permanent basis: Provided, That if his reemployment would cause the

separation or demotion of another employee he shall then be considered an employee for the purpose of applying Retention Preference Regulations to determine what if any position he is entitled to: Provided, further, That upon reemployment in the Postal Service he shall be given the seniority he would have attained had he not been released. In order to be entitled to reemployment rights the employee must make application for reemployment within forty days after his separation.

This section is effective upon publication in the Federal Register.

§ 8.115 Appointment of employees released with reemployment rights.

(a) The Commission hereby delegates authority to agencies to give indefinite appointments to employees who have been released with reemployment rights by the agency in which employed, provided the standards of the Commission are met and the promotion restrictions of § 8.109 of this part are observed.

(b) The Commission may disapprove any such indefinite appointment or suspend or withdraw this authority whenever, after post-audit, it finds that the regulations in this section have not been followed.

(c) Persons appointed under this section shall not be required to serve a trial period. However, the appointments of such persons who have not completed the probationary period shall be subject to completion of such period.

(d) Persons serving under such appointments are eligible for within-grade salary steps in the same manner as provided in § 2.115(c) of this chapter.

This section is effective upon publication in the Federal Register.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U.S.C. 631, 633)

PART 9--SEPARATIONS, SUSPENSIONS AND DEMOTIONS

1. The headnote of § 9.102 is amended to read as follows:

§ 9.102 Procedure in separating, suspending or demoting permanent and indefinite employees.

2. In the first sentence of § 9.102(a) the word "indefinite" is substituted for the words "war service indefinite."

(R.S. 1753, sec. 2, 22 Stat. 403; 5 U.S.C. 631, 633)

PART 10--SPECIAL TRANSITIONAL PROCEDURES

Part 10 is hereby revoked.

(R.S. 1753, sec 2, 22 Stat. 403; 5 U.S.C. 631, 633)

A new Part 11 is added as follows:

PART 11--PERMANENT READJUSTMENTS IN PERSONNEL

Sec.

11.1 Separations, demotions and reductions in rank or compensation.

11.2 Consideration of veterans for permanent promotion.

AUTHORITY: §§ 11.1 to 11.2 issued under R. S. 1753, sec. 2, 22 Stat. 403, 5 U.S.C. 631, 633.

§ 11.1 Separations, demotions and reductions in rank or compensation. When an agency, following authorization by the Commission, makes permanent readjustments in personnel:

(a) The separation, demotion, or reduction in rank or compensation of any employee serving under an indefinite appointment made in accordance with §§ 2.115, 7.105, and 8.115 of this chapter will be considered as having been made on order of the Commission and will not be subject to the requirements of Parts 9 and 22 of this chapter.

(b) Any change downward in the rank or compensation of a permanent employee of the agency from a position held on an indefinite basis will be considered as having been made on order of the Commission and will not be subject to the requirements of Parts 9 and 22 of this chapter. However, any such change downward below the employee's permanent rank or level must be made in accordance with Parts 9 and 22 of this chapter.

§ 11.2 Consideration of veterans for permanent promotion. When permanent readjustments in personnel are authorized by the Commission:

(a) Full consideration shall be given to all qualified permanent employees of the agency in making selections for permanent promotions. Any employee still absent in the armed forces at this time shall be given the same consideration as the employees who are present in the agency, and the agency shall record in his Official Personnel Folder what consideration for promotion was given to him.

(b) Each agency shall establish a committee or committees to review the selections made for promotion to assure that full consideration is given to the qualifications of permanent employees who have been restored, or who are entitled to be restored, to duty in the agency after service in the armed forces. Such committees shall make reports and recommendations to the head of the agency with respect to the consideration given to the promotion of such employees.

PART 20--RETENTION PREFERENCE REGULATIONS FOR USE
IN REDUCTIONS IN FORCE

1. Section 20.3 is amended to read as follows:

§ 20.3 Retention preference; classification. For the purpose of determining the relative rights to retention in the service in reductions in force, employees shall be classified in major groups PA, TA, X, Y, B, and C, according to tenure of employment, and by subgroups 1, 2, 3, and 4 on the basis of veteran preference and performance ratings as set out below. The subgroups under each major tenure group are:

Subgroup 1. With veteran preference unless performance rating is less than "Satisfactory."

Subgroup 2. Without veteran preference unless performance rating is less than "Satisfactory."

Subgroup 3. With veteran preference where performance rating is less than "Satisfactory."

Subgroup 4. Without veteran preference where performance rating is less than "Satisfactory."

Group PA. All employees currently serving under absolute or probational appointments in positions held by the employee on a permanent basis, including preference eligibles in excepted positions under appointments without time limitation.

Special subgroup PA-1 Plus. During one-year period after restoration, as required by law (Section 8, 54 Stat. 890; section 9, 62 Stat. 614; 50 U.S.C. App. 308, 459).

Group TA. All employees with permanent tenure serving under an indefinite promotion, demotion or reassignment.

Group X. All employees with competitive status serving under indefinite appointments which were made after September 1, 1950 with no break in service of more than thirty days.

Group Y. Each employee eligible to acquire competitive status under authority of Executive Order 10080 or Executive Order 10157 until (1) it is determined that he will not be recommended by the agency for competitive status, (2) the time limit for recommending status is past, or (3) the recommended status is disapproved by the Commission.

Group B. All employees in positions in the competitive service without competitive status under appointments without time limitations; all employees in competitive or excepted positions serving under appointments with time limitations, except those specifically covered in groups TA, X, and C.

Group C. All employees in the competitive service serving under appointments with definite time limitations imposed in accordance with § 2.114 of this chapter, or in accordance with specific authority of the Commission; all employees in the excepted service with definite time limitations of one year or less.

2. Paragraph (a) of § 20.6 is amended to read as set out below. As amended, § 20.6 reads as follows:

§ 20.6 Special regulations relating to consolidations and mergers. (a) Before any reduction in force is made in connection with the transfer of any or all of the functions of an agency to another continuing agency, all preference eligibles and all employees serving with permanent tenure in positions identified with such function shall be transferred to such continuing agency, without change in tenure of employment.

(b) Employees whose positions are identified with functions transferred solely for the purpose of liquidation shall not be entitled to the reassignment benefits of § 20.9 in the receiving agency, unless identified with operating functions which are specifically authorized at the time of transfer to continue in operation for a period of more than sixty days.

3. Paragraphs (c) and (d) of § 20.7 are redesignated as paragraphs (d) and (e) and a new paragraph (c) is added as set out below. As amended, § 20.7 reads as follows:

§ 20.7 Retention register--(a) Compilation. A retention register shall be compiled for each competitive level affected by the reduction in personnel, from records brought up to a current basis. Such register shall include all employees whose official positions are in the competitive level excluding therefrom only those who are serving in the armed forces of the United States or in the merchant marine, with reemployment rights.

(b) Separation of registers. Separate competitive levels shall be established for employees in positions in the competitive service, employees in excepted positions, seasonal employees, employees serving on a when-actually-employed (WAE) basis, and part-time employees.

(c) Employees serving under intra-agency indefinite personnel actions. Whenever retention preference regulations are applied any permanent employee in a position to which he has been given an indefinite promotion, demotion, or reassignment shall be considered in competition with only those permanent employees who also have been given indefinite promotions, demotions, or reassignments, except that in being considered for separation or demotion from his permanent position or grade he shall be in competition with all competing permanent employees.

(d) Order of standing. Retention registers shall be arranged in the order of tenure groups and by sequence according to retention credits within subgroups reflecting higher retention standing for those having a higher number of retention credits. Retention credits need not be computed or

indicated on the register for employees in subgroups not affected by the reduction, in subgroups from which all employees are to be separated, or in retention group C.

(e) Availability for inspection. Retention registers reflecting the required order of standing shall be open for inspection by employees reached for action by reduction in force and by representatives of the Civil Service Commission.

4. In paragraph (a) of § 20.8 the reference to groups "A and B" is changed to "PA, TA, X, Y and B," and in paragraph (b) of the same section "A or B" is changed to "PA, TA, X, Y or B." As amended, § 20.8 reads as follows:

§ 20.8 Sequence of selection--(a) Actions. Within each competitive level action must be taken to eliminate all employees in lower subgroups before a higher subgroup is reached, and within each subgroup of retention groups PA, TA, X, Y, and B action must be taken concerning all employees with a lower number of retention credits before an employee with a higher number of retention credits is reached, except as provided in paragraph (c) of this section.

(b) Breaking ties. Whenever two or more employees are tied as to total retention credits in retention group PA, TA, X, Y or B the tie shall be broken first by considering half years of service in excess of total full years for which retention credits were granted. If a tie still exists it shall be broken by administrative decision, which may take into account such factors as official conduct, efficiency, number of dependents, length of service, or fitness for the job.

(c) Exceptions. An exception to the regular order of selection may be made only when the employee to be retained is engaged on necessary duties which cannot be taken over, without undue interruption to the activity, by any employee with higher standing on the retention register who is reached for action. In all such cases, each employee affected adversely by the exception must be notified of the reasons, and of his right to appeal to the Civil Service Commission for a review of such reasons.

5. Subparagraphs (1), (2) and (3) of § 20.9(b) are revoked and new subparagraphs (1) and (2) are added as set out below. As amended, § 20.9 reads as follows:

§ 20.9 Actions--(a) In general. Employees who cannot be retained in their positions because of a reduction in force shall be reassigned to continuing positions, furloughed, or separated. Furloughs shall not extend beyond the term of appointment and shall in no case exceed 1 year from the date of notice.

(b) Reassignments to continuing positions in local commuting area. Reassignment is required in lieu of separation or furlough, within the local commuting area, without interruption to pay status whenever possible, to an available position for which the employee is fully qualified, unless

a reasonable offer of reassignment is refused. No displacement will be required to permit the reassignment of an employee unless such employee is fully qualified to perform the duties of the position in question without undue interruption to the work program. Subject to these conditions, reassignment is required in each of the following cases:

(1) To a lower retention group or subgroup. Any employee with competitive status in the competitive service in group PA or TA, if there is a position in the competitive service held by an employee in a lower retention group or subgroup; any employee in group X or Y in a position in the competitive service, if there is a position in the competitive service held by an employee in a lower retention group or subgroup; and any employee in subgroup B-1, in a position in the competitive service, if there is a competitive service position held by an employee in a lower retention group or subgroup.

(2) Within same subgroup. Any employee with competitive status in the competitive service in subgroup PA-1 or PA-2, if there is a competitive service position, the same as the position from which he had been promoted on a permanent basis within the same competitive area (installation in the field service) held by an employee in the same subgroup with fewer retention credits.

(c) Reasonable offer of reassignment. An offer of reassignment must be to a specific position which is expected to continue at least three months. Any offer of reassignment is reasonable if accepted by the employee as reasonable with knowledge of the facts. An offer of reassignment which is not acceptable to the employee will not be considered as reasonable if it involves a reduction in rank or compensation when a reassignment under the foregoing provisions could be made without reduction in rank or compensation.

6. Section 20.11 is amended to read as follows:

§ 20.11 Reappointment priority--(a) Reappointment reserve list.

Each agency shall establish and maintain a reappointment reserve list for each competitive area where career employees in subgroups PA-1 and PA-2 are separated in reductions in force. Each employee in subgroup PA-1 or PA-2 with competitive status who has been separated from a position in the competitive service on the basis of a notice as provided in § 20.10 shall have his name entered on the reappointment reserve list for all positions in the competitive area for which he is qualified and available and continued on such list for a period of one year from the date of such notice, except that his name may be deleted from such list upon his signed written request, upon his acceptance of a position in any Federal agency, or if he declines reappointment to a position in the competitive service equivalent in grade and salary to the position from which separated.

Any employee separated on or after September 30, 1949, who has acquired a competitive status under the authority of Executive Order 10080, shall be entitled, upon application to the agency from which separated,

to have his name entered upon the appropriate reappointment reserve list for the remaining portion of the one-year period following the date of the notice under which he was separated. The same provision is applicable to any employee separated on or after August 28, 1950, who has acquired competitive status under the authority of Executive Order 10157.

(b) Restriction in filling positions. No position in the competitive service, for which there is a qualified person available on the reappointment reserve list, may be filled by appointment of an employee of a different agency, or by the new appointment of any person except a qualified 10-point preference eligible. Furthermore, no such position may be filled by the reappointment of a person who is not on the reappointment reserve list, unless such person is a preference eligible. These restrictions shall not apply if all qualified persons on the reappointment reserve list decline, or fail to respond to, offers of reappointment to the position. In selections for reappointment from such reserve lists, qualified preference eligibles shall have preference. Exceptions to these provisions may be made for reasons which promote the efficiency of the service: Provided, That each person who is not selected as a result of such exception shall be given a written statement of the reasons which promote the efficiency of the service, with an opportunity to answer and to have a written decision on the answer and to appeal such decision to the Civil Service Commission.

(c) Appeals. Any former employee entitled to reappointment priority under the foregoing provisions may appeal to the Civil Service Commission by presenting factual information that he was denied reappointment by the appointment of another person in violation of these provisions, or that the reasons for an adverse exception were not such as would promote the efficiency of the service.

(Secs. 11 and 19, 58 Stat. 390, 391; 5 U.S.C. 860, 868. Interprets or applies sec. 8, 54 Stat. 890, sec. 9, 62 Stat. 614; 50 U.S.C. App. 308, 459)

PART 22--APPEALS OF PREFERENCE ELIGIBLES UNDER THE VETERANS' PREFERENCE ACT OF 1944

In subparagraph (1) of § 22.1(a) the words "War Service" occurring in the first sentence are deleted. As amended, subparagraph (1) will read as follows:

§ 22.1 Applicability of regulations--(a) Coverage * * *

(1.) Employees covered. Employees affected are permanent and indefinite preference eligible employees who have completed a probationary or trial period in positions under the Civil Service Rules or Regulations, or one year of current continuous employment in positions excepted from the competitive service, in the service of any establishment, agency, bureau, administration, project or department created by acts of Congress or Presidential order or in the service of the District of Columbia. The regulations in this part are not applicable to employees serving probationary

or trial periods or to employees under the legislative or judicial branch of the Government, and employees who were appointed to any positions required to be confirmed by, or made with, the advice and consent of the United States Senate, other than postmasters in offices of the first, second and third classes.

(Sec. 11, 58 Stat. 390; 5 U.S.C. 860).

PART 35--RESTORATION OF FEDERAL EMPLOYEES PURSUANT
TO THE SELECTIVE SERVICE ACT OF 1948

1. Section 35.1 is amended by the addition of a sentence at the end thereof. As amended, the section reads as follows:

§ 35.1 Coverage. The following regulations will apply to any person who leaves or has left a position other than a temporary position in the executive branch of the Federal or the District of Columbia government subsequent to June 24, 1948, the effective date of the Selective Service Act of 1948, to enter on active duty with the armed forces of the United States. These regulations will likewise apply to all employees with permanent tenure serving under an indefinite promotion or reassignment.

2. Section 35.3 is amended to read as follows:

§ 35.3 Job classification and job identity requirements--(a)
All positions subject to the provisions of the Classification Act of 1949 (Departmental and Field). It shall be the responsibility of the head of the agency concerned, or his designee, to determine whether the job classification sheet for the position which the employee leaves is current and actually reflects the duties performed by him. In the event the job classification sheet does not accurately reflect the duties and responsibilities of the employee entering on military duty, the agency shall rewrite the job classification sheet to conform therewith and if there is sufficient time for complying with legal and regulatory requirements, have the position allocated to its proper service, class and grade, and take official personnel action to place the employee in that position, effective not later than the date of his separation. Each employee leaving for military duty shall be given a job description showing his current duties and responsibilities and the service, class, and grade to which his position has been allocated, and a record of these actions shall be entered in the employee's Official Personnel Folder.

In the case of an employee with permanent tenure serving under an indefinite promotion or reassignment, the agency shall record in the employee's Official Personnel Folder sufficient information to identify his current position, and shall furnish the employee a description of the duties and responsibilities of his last permanent position.

If the position of an employee while absent on military duty is re-allocated upward an official personnel action shall be taken placing him in the position that has been reallocated, unless it is clearly shown that he is not qualified for the position. If the position is reallocated downward during his absence no personnel action shall be taken until he returns and is restored, at which time the downgrading will be processed under section 14 of the Veterans' Preference Act of 1944, as amended.

(b) All positions not subject to the provisions of the Classification Act of 1949. It shall be the responsibility of the head of the agency concerned or his designee to identify positively the position which an employee leaves by title, grade, salary, organizational location, and, if necessary, for positive identification by position description. Each employee entering on military duty shall be given a statement positively identifying the position which he is leaving. A copy of this statement shall be placed in the employee's Official Personnel Folder. In the case of an employee with permanent tenure serving under an indefinite promotion or reassignment, the agency shall record in the employee's Official Personnel Folder sufficient information to identify his current position, and shall furnish the employee a description of the duties and responsibilities of his last permanent position.

3. Section 35.4 is amended to read as follows:

§ 35.4 Promotions. During the period when all promotions are being designated as indefinite, permanent employees absent on military duty may be considered for indefinite promotions. When an agency, following authorization by the Commission, makes permanent readjustments in personnel, any employee absent on military duty shall be given the same consideration for permanent promotion as the employees who are serving in the agency at that time. Thereafter he shall be considered for any and all promotions or other personnel actions for which he would normally have been considered had he not been absent on military duty. Agencies will be held responsible for maintaining adequate records to assure such consideration during the time he is absent. Any such promotion shall be effected as of the date it would have been made notwithstanding the absence for military duty.

4. Section 35.7 is amended to read as follows:

§ 35.7 Restoration after service in the armed forces. (a) Any permanent employee in the service of the United States, its territories, or possessions, or political subdivisions thereof, or of the District of Columbia, who leaves such service for induction into the armed forces of the United States subsequent to June 24, 1948, and (1) receives a certificate of satisfactory completion of training and service, and (2) makes application for reemployment within ninety days after he is relieved from duty in the armed forces or from hospitalization continuing after discharge for not more than one year, shall, if qualified, be restored to employment as follows:

(1) If the position he left was one to which he had been temporarily promoted, a final date for termination of indefinite promotions has not been set, and the position or one of equal seniority, status, and pay is vacant or occupied by an employee who is not a permanent employee of the agency, he shall be temporarily restored to such position. If there are no such positions except those occupied by permanent employees, the returning employee shall be temporarily restored to such a position only if the permanent employee (a) is occupying the position through an indefinite promotion and (b) would have less retention rights under retention preference regulations in competition with the returning employee and others in the same competitive level.

(2) If the position he left was one to which he had been temporarily promoted, and a final date for termination of indefinite promotions has not been set, but he is not entitled to restoration to such position or one of equal seniority, status, and pay under subparagraph (1) of this paragraph, he shall be temporarily restored in any other position in which he had served through indefinite promotion, or one of equal seniority, status, and pay, provided such position is vacant, or is occupied by an employee who is not a permanent employee of the agency, or is filled by indefinite promotion of a permanent employee who would have less retention rights under retention preference regulations in competition with the returning employee and others in the same competitive level.

(3) If the employee left a permanent position subsequent to June 24, 1948 and prior to September 2, 1950 and is not entitled to restoration to any position higher than his permanent position under subparagraph (1) or (2) of this paragraph, he shall be restored to (a) the position to which he was promoted or would have been promoted had he remained continuously in his civilian employment during such dates or (b) to his permanent position, if it exists, or if it does not exist, to a position of like seniority, status, and pay.

(4) A restoration to a position based on the employee's indefinite promotion shall not cause such indefinite promotion to extend beyond the date it would otherwise be terminated.

(5) If because of disability sustained during service in the armed forces the returning employee is not qualified to perform the duties of the position to which he is entitled to restoration, but is qualified to perform the duties of any other position in the agency, he shall be restored to such other position in such a way as to provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(b) Any permanent employee who, subsequent to June 24, 1948, leaves the service to enlist in the armed forces of the United States for not more than three years shall, if such enlistment is his first enlistment after June 24, 1948, be entitled upon the expiration of this enlistment or honorable discharge prior thereto (including any extension thereof by law, but not including any voluntary extension), to all the reemploy-

ment rights and benefits as in the case of inductees in paragraph (a) of this section.

(c) Any permanent employee who, subsequent to June 24, 1948, is ordered or called to active duty in the armed forces of the United States, or the Public Health Service shall, if relieved from active duty not later than three years after the date of entrance thereon or as soon thereafter as he is able to obtain his release, be entitled to all the reemployment rights and benefits as in the case of inductees in paragraph (a) of this section.

(d) If upon appeal of any person, the Commission finds that (1) his agency is no longer in existence and its functions have not been transferred; or (2) for any reason it is not feasible for the person to be restored by his employing agency or by the District of Columbia, the Commission shall determine whether there is a position in any other agency in the executive branch of the Government or in the Government of the District of Columbia for which he is qualified and which is vacant or held by an indefinite employee. When it is so determined, he shall be restored to such position as directed by the Commission.

(e) In case two or more persons are entitled to be restored to the same position, under subparagraph (1) or (2) of paragraph (a) of this section, the person who would have the greater retention preference in such position shall have the prior right to be assigned thereto. The second person shall be assigned to a comparable position of like seniority, status, and pay for which he is qualified: Provided, That if such assignment would cause the separation or demotion of another employee, the returning employee shall be presumed to be an employee and retention preference regulations shall then be applied to determine to what if any position he is entitled. If such assignment is impossible, the second veteran should be offered restoration to the next best available position under the same procedure.

(f) In case two or more persons are entitled to be restored to the same position under subparagraph (3) of paragraph (a) of this section, the person who left such position first shall have the prior right to be restored thereto. The second person shall be assigned to a comparable position of like seniority, status, and pay for which he is qualified, provided there is such a position not occupied by an employee with equal or greater retention preference. If such an assignment is impossible, the second veteran should be offered restoration to the next best available position.

(Sec. 9, 62 Stat. 614; 50 U.S.C. App. 459)

UNITED STATES CIVIL SERVICE COMMISSION